



POLICE DEPARTMENT

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In the Matter of the Disciplinary Proceedings :
- against - : FINAL
Police Officer Christopher Connolly : ORDER
Tax Registry No. 936376 : OF
Military and Extended Leave Desk : DISMISSAL
-----X

Police Officer Christopher Connolly, Tax Registry No. 936376, Shield No. 29537, Social Security No. ending in [REDACTED], having been served with written notice, has been tried on written Charges and Specifications numbered 2011-3633 & 2011-4961 as set forth on form P.D. 468-121, dated March 7, 2011 and June 1, 2011, and after a review of the entire record, has been found Guilty as Charged.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Christopher Connolly from the Police Service of the City of New York.

RAYMOND W. KELLY
POLICE COMMISSIONER

EFFECTIVE: On November 28, 2011 @0001HRS



POLICE DEPARTMENT

October 4, 2011

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In the Matter of the Charges and Specifications : Case Nos.
: 2011-3633 &
- against - : 2011-4961
Police Officer Christopher Connolly :
Tax Registry No. 936376 :
Military and Extended Leave Desk :
-----X

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Robert W. Vinal
Assistant Deputy Commissioner - Trials

APPEARANCE:
For the Department:

Daniel Maurer, Esq.
Department Advocate's Office
One Police Plaza
New York, New York 10038

For the Respondent: *Pro Se*

To:

HONORABLE RAYMOND W. KELLY
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

COURTESY • PROFESSIONALISM • RESPECT

The above-named member of the Department appeared before me on August 8, 2011 and August 16, 2011, charged with the following

Disciplinary Case No 2011-3633

1 Said Police Officer Christopher Connolly, assigned to Detective Borough Queens, on or about and between November 15, 2010 and February 8 2011 failed to maintain a current New York State driver license in that said license was suspended, revoked or not renewed due to Officer Connolly's failure to maintain automobile insurance

P G 203-03, Page 1, Paragraph 5 – COMPLIANCE WITH ORDERS

2 Said Police Officer Christopher Connolly, assigned to Detective Borough Queens on or about February 8, 2011, engaged in conduct prejudicial to the good order, identity known to the Department, to possess and use drug paraphernalia in his presence

P G 203-10, Page 1, Paragraph 5 – CONDUCT PREJUDICIAL

3 - Christopher Connolly, assigned to Detective Borough Queens, on or about February 8, 2011, did knowingly associate with a person reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities, in that Officer Connolly had personal contact with Mr [REDACTED] and was aware of Mr [REDACTED]

P G 203-10, Page 1 Paragraph 2 (c) – PUBLIC CONTACT
PROHIBITED CONDUCT

4 Said Police Officer Christopher Connolly, assigned to Detective Borough Queens, on or about and before February 8, 2011, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer failed to return his Department issued vehicle parking permit when such permit had expired

P G 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

5 - Christopher Connolly, assigned to Detective Borough Queens, on or about February 8, 2011, while off-duty, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer displayed an expired Department issued parking permit in his vehicle

P G 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

6 Said Police Officer Christopher Connolly, assigned to Detective Borough Queens, on or about and between November 8, 2010 and February 8, 2011, engaged in

conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer, without authority or police necessity, possessed a controlled substance, to wit, heroin

P G 203-10, Page 1, Paragraph 5 - PROHIBITED CONDUCT

7 Said Police Officer Christopher Connolly, assigned to Detective Borough Queens, on or about and between November 8, 2010 and February 8, 2011, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Officer, without authority or police necessity, ingested a controlled substance to wit, heroin

P G 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

Disciplinary Case No 2011-4961

1
the Military and Extended Leave Desk, within the confines of New York County, was in possession of a controlled substance, to wit approximately 62 packages of heroin

P G 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

NYS PL 220 16 – CRIMINAL POSSESSION OF A CONTROLLED
SUBSTANCE IN THE THIRD DEGREE

NYS PL 220 06 – CRIMINAL POSSESSION OF A CONTROLLED
SUBSTANCE IN THE FIFTH DEGREE

2 On or about May 27, 2011, Police Officer Christopher Connolly, assigned to the Military and Extended Leave Desk, operated a motor vehicle on a public highway without a valid NYS Drivers License and with reason to know that his privilege to operate a vehicle in New York State has been suspended or revoked

P G 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

VTL 511 – AGGRAVATED UNLICENSED OPERATION IN THE
THIRD DEGREE

VTL 509 – UNLICENSED DRIVING

3 On or about May 27, 2011, Police Officer Christopher Connolly, assigned to the Military and Extended Leave Desk knowingly associated with an individual known to the Department, reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities, despite his knowledge of said individuals criminal history

P G 203- 10, Page 1, Paragraph 2 (c) – PUBLIC CONTACT
PROHIBITED CONDUCT

4 On or about and between May 24, 2011 and May 27, 2011, Police Officer Christopher Connolly, assigned to the Military and Extended Leave Desk, without authority or police necessity, did possess a controlled substance, to wit cocaine (*As amended*)

P G 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

5 On or about and between May 24, 2011, and May 27 2011, Police Officer Christopher Connolly, assigned to the Military and Extended Leave Desk, without authority or police necessity, did ingest a controlled substance, to wit cocaine (*As amended*)

P G 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

6 On or about and between March 28, 2011, and May 27, 2011 Police Officer Christopher Connolly, assigned to the Military and Extended Leave Desk, without authority or police necessity, did possess a controlled substance, to wit heroin (*As amended*)

P G 203-10 Page 1, Paragraph 5 – PROHIBITED CONDUCT

7 On or about and between March 28 2011 and May 27, 2011, Police Officer Christopher Connolly, assigned to the Military and Extended Leave Desk, without authority or police necessity, did ingest a controlled substance, to wit heroin (*As amended*)

P G 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

The Department was represented by Daniel Maurer, Esq , Department Advocate s Office, and the Respondent represented himself

The Respondent entered a plea of Not Guilty to the subject charges A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review

DECISION

The Respondent is found Guilty

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Police Officer Michael Scali, Sergeant Joseph Profeta, Sergeant Joseph Mora, Lieutenant Mark DeFazio, Rakhshanda Javed-Ghaffar, Michael Lehrer, Sergeant Joseph Longo and Sergeant Janice Maher as its witnesses.

Police Officer Michael Scali

Scali testified that on February 8, 2011, he was on duty, assigned to the 62 Precinct, inside an unmarked Department vehicle traveling on West Fifth Street, Brooklyn, when he observed a car parked in front of a fire hydrant. When he approached the vehicle, he saw that the male seated in the driver's seat was holding a hypodermic needle in his right hand and he saw four more hypodermic needles in plain view in the center console between the driver and the male who was seated in the front passenger's seat. Scali testified that he ordered the two males to exit the vehicle. He ascertained that the driver's name was [REDACTED]. When he conducted a criminal record check on [REDACTED], he ascertained that [REDACTED] had been arrested numerous times for drug possession. The male who was seated in the front passenger's seat showed Scali a Department shield and identified himself as Police Officer Christopher Connolly. Scali observed a Department parking plaque on the dashboard which had an expired validation date. Scali informed his supervisor about what he had observed regarding the hypodermic needles and that the male who was seated in the front passenger's seat was Police Officer Christopher Connolly.

Sergeant Joseph Profeta

Profeta, assigned to Internal Affairs Bureau (IAB) Group 31, testified that he was on duty on February 8, 2011 and that Inspector Philip Romanzi ordered him to transport the Respondent to the Medical Division at One Lefrak Plaza, Queens, and to collect hair samples from him for drug testing

Upon arrival at One Lefrak Plaza, after the Respondent signed the Medical Division's log, Profeta followed the mandated hair sample collection documentation procedures by first assigning the Respondent a drug screening number. The Respondent was assigned drug screening number AU-4-11-QH. The letter 'H' in this drug screening number indicated that hair samples would be taken from the Respondent. This drug screening number was entered on a 'Drug Screening Questionnaire - Hair Testing' form. The Respondent entered his name, date of birth, and social security number on this form. Section '1' of this form required the Respondent to 'list any prescription medication taken during the past 3 months.' The Respondent wrote "[REDACTED]" The Respondent signed and dated the form and Profeta signed it as the 'collector.' The Respondent's index finger was inked and his fingerprint was entered on this form.)

The Respondent's drug screening number was then entered on three Forensic Drug Test Custody and Control forms which each contained a pre-printed Specimen ID number. The Forensic Drug Test Custody and Control forms for the two hair samples which were to be sent to Psychomedics Corporation (Psychomedics) the drug testing laboratory the Department utilizes for hair sample testing, contained Specimen ID

numbers N210229 and N132881 (DX 6, pages 4-7) The Respondent signed and dated each of the forms and Profeta signed both forms as the collector "

Profeta testified that he has received training from the Department and from Psychemedics regarding how to properly collect and seal hair samples for drug testing Profeta collected three hair samples from the Respondent on February 8, 2011 Profeta followed the mandated hair sample collection procedures by bringing the Respondent into a room containing two tables Profeta cleaned the sample collection table to disinfect it and put clean paper on top of the table He then used sample collection packaging materials provided by Psychemedics He set-up on the table three strips of tin foil and three collection envelopes and three sample labels all of which he removed from a standard sealed kit provided by Psychemedics Profeta put on sterile gloves and removed a scissor from a sealed package provided by Psychemedics

Profeta testified that he cut hair from the Respondent's head and he separated the hair into three piles Each pile was placed into one of the three packets of tin foil and each packet of tin foil was folded and then placed into one of the three sample collection envelopes which were each sealed along with a Sample Acquisition Card (DX 6, page 7)

which Profeta signed in the Respondent's presence and then had the Respondent initial The three samples were then placed inside a locker which was locked Samples N210229 and N132881 were later mailed to Psychemedics for testing The third sample was retained inside the locker for the Respondent's later use

Inspector Alan Cooper

Cooper, assigned to IAB, recalled that he was on duty on May 27, 2011 and that at about noon, he was driving his car. Inspector O'Brien and another inspector were passengers in his car. As he parked his car on Hudson Street, Manhattan, near IAB Headquarters, he observed a man in partial police uniform standing next to a nearby vehicle. The man was wearing a regulation Department eight-point cap with what appeared to be a Department shield device on the front of the cap, a short uniform duty jacket with two patches, and a duty gun belt. However, the man was also wearing blue jeans and white sneakers. O'Brien walked over to the car and Cooper followed him. As O'Brien for impersonating a police officer, Cooper asked MacKay where he had obtained the police was wearing. MacKay stated that they belonged to his friend Chris and that Chris had walked across the street and was _ _ the Police Department (IAB Headquarters).

Soon thereafter, MacKay pointed to a man walking toward them and said "That's him." When Cooper asked the man who he was, the Respondent identified himself as Police Officer Christopher Connolly. The Respondent and MacKay were brought inside IAB Headquarters where MacKay made a written statement (DX 3) in which he alleged that the Respondent had entered a building to buy heroin for MacKay. The Respondent was searched in Cooper's presence. He observed that "stuffed down inside his pants" were two plastic prescription bottles with white caps. One bottle contained 32 glassine envelopes which contained a white powder that appeared to be heroin. The other plastic prescription bottle contained 30 glassine envelopes. A photo of these two bottles and

these 62 envelopes was taken (DX 4) The Respondent was placed under arrest and he was transported to the Medical Division for immediate drug testing for cause

Sergeant Ruben Soto

Soto testified that he was on duty on May 27, 2011, and that Inspector Cooper assigned him as the arresting officer the arrest of Police Officer Christopher Connolly who was being charged with possession of 62 glassine envelopes which contained a white powder that appeared to be heroin Narcotics evidence voucher number 1000027755 was prepared listing these 62 glassine envelopes (DX 10) and the voucher and the 62 glassine envelopes were placed into a security envelope which was then sealed by Soto who wrote his signature over the seal The sealed security envelope was then dropped into a locked narcotics locker, located inside the First Precinct, to be forwarded to the Department laboratory for testing

Mora, who is assigned to the Police Laboratory and who has been trained to analyze evidence for the presence of controlled substances, testified that she was on duty on May 30, 2011 and she was assigned to analyze the contents of a sealed security envelope that had been forwarded to the Department's laboratory for testing The narcotics evidence voucher number for this sealed security envelope was 1000027755 and the sealed envelope contained 62 glassine envelopes She randomly selected the contents of two of the 62 glassine envelopes for testing She initially conducted the standard presumptive color test on both using a reagent This test showed that the contents of the two envelopes turned the color purple which is indicative of the presence

of heroin. She then tested the contents of the two envelopes using GC/MS.

They both tested positive for heroin and she prepared a report documenting these results (DX 11). She determined that the projected aggregate weight for the contents of all 62 glassine envelopes was 2.66 grams.

Lieutenant Mark DeFazio

DeFazio, assigned to IAB Group 31, testified that on May 27, 2011, he was directed to transport the Respondent to the Medical Division for immediate drug testing for cause because suspected drugs had been recovered from the Respondent's person. DeFazio testified that he has received training regarding how to properly collect and seal both urine and hair samples for drug testing. He collected three hair samples and three urine samples from the Respondent. He followed the mandated documentation procedures by assigning the Respondent a drug screening number which was AU-7-11-QH. This drug screening number was entered on a "Drug Screening Questionnaire-Hair Testing" form (DX 8). The Respondent entered his name, shield number, tax number, and social security number on this form. Section "1" of this form required the Respondent to "list any _____ the past 3 months." The Respondent wrote _____ "The Respondent signed and dated the form and DeFazio signed it as the "collector." The Respondent's index finger was inked and his fingerprint was entered on this form.

The Respondent's drug screening number was also entered on three Forensic Drug Test Custody and Control forms _____ pre-printed Specimen ID number. The Forensic Drug Test Custody and Control forms for the two hair samples which would be sent to Psychomedics for drug testing contained Specimen ID numbers

N522328 and N519310 (DX 7 pages 4-7) The Respondent signed and dated each of the forms and DeFazio signed both forms as the "collector " DeFazio followed the hair sample collection procedures by bringing the Respondent into a room containing two tables He cleaned the sample collection table to disinfect it and put clean paper on top of the table He then used sample collection packaging materials provided by Psychemedics and set-up on the table three strips of tin foil and three collection envelopes and three

- provided by

Psychemedics He put on sterile gloves and removed a scissor from a sealed package provided by Psychemedics from the top of the Respondent's head He separated the hair into three piles Each pile was placed into one of the three packets of tin foil and each packet of tin foil was folded and then placed into one of the three sample collection envelopes which were each sealed along with a Sample Acquisition Card (DX 7 page 7) denoting the Specimen ID number which DeFazio signed in the Respondent's presence and then had the Respondent initial The three samples were then placed inside a locker which was locked Hair samples N522328 and N519310 were later mailed to Psychemedics for testing The third sample was retained inside the locker for the Respondent's later use

The Respondent also entered drug screening number AU-7-11-QH on a "Drug Screening Questionnaire-Urine Testing" form (DX 9) The Respondent also entered his name, shield number, tax number, and social security number on this form DeFazio followed urine sample collection procedures by bringing the Respondent into a bathroom stall He collected the urine samples by providing a sterile plastic container to the Respondent He stood next to him and observed the Respondent urinate into this container The Respondent was then directed to pour the urine in the container into two

smaller sterile containers. The Respondent was then directed to seal these two containers. The containers were placed into a sealed envelope and, with the assistance of an officer from the Medical Division, DeFazio made sure that the urine samples were

Kansas City for testing.

Rakhshanda Javed-Ghaffar

Javed-Ghaffar (Ghaffar), who is presently Senior Scientist at Psychomedics, a drug testing laboratory in Culver City, California, was ruled to be an expert in the area of testing hair for drug content based on the qualifications cited in her curriculum vitae (DX 5). She explained that when a drug enters the body by ingestion, whether snorted, smoked or eaten, it enters the bloodstream. As blood enters hair follicles it carries some of the ingested drug with it and some of the drug is "trapped" inside hair follicles. Ghaffar testified that when heroin is ingested and metabolized by the liver, the primary byproduct or metabolite that is produced in the body has the chemical name 6-Monoacetylmorphine (6MAM). She testified that because 6MAM is specific to heroin and cannot be produced by the ingestion of any substance other than heroin, none of the prescription medications that the Respondent listed on the "Drug Screening Questionnaire - Hair Testing" form he completed on February 8, 2011, (DX 1) listing

samples to test positive for 6MAM.

Ghaffar explained that since hair grows at a steady and predictable rate, generally one half inch per month, hair acts as a time capsule. Hair that was ingested was ingested. Ghaffar further testified that the length of the hair that was clipped from

the Respondent had about a 90-day look back period, meaning that analysis of the Respondent's hair samples would only detect drugs that were ingested by the Respondent within the 90 day period prior to the date that the samples were collected

Ghaffar interpreted the data contained in the laboratory data package produced by Psychemedics which details the analytical results of the testing of the hair samples that were collected by Profeta on February 8, 2011 - - - who was assigned drug screening number AU-4-11-QH (DX 6) She testified that the analytical results show that one of the Respondent's two hair samples was initially tested and it tested positive when subjected to - - - - both of the Respondent's hair samples were then separately tested via LC/MS/MS instrumentation The LC/MS/MS test results showed that both samples tested positive for 6MAM at a concentration level well above the administrative reporting cut-off level of five nanograms of per ten milligrams of hair Sample N210229 tested positive at 59.5 nanograms per ten milligrams of hair (DX 6 page 4) Sample N132881 tested positive at 56.2 nanograms per ten milligrams of hair (DX 6 page 5) She concluded that these analytical results reflected ingestion of heroin by the Respondent during the three-month period prior to February 8, 2011, the date his hair samples were collected

Ghaffar also interpreted the data contained in the laboratory data package produced by Psychemedics which details the analytical results of the testing of the hair samples that were collected by DeFazio on May 27, 2011, from the person who was assigned drug screening number AU-7-11-QH (DX 7) She testified that these analytical results show that because one of the Respondent's two hair samples tested positive when subjected to the RIA test, both of the Respondent's hair samples were then separately tested via LC/MS/MS instrumentation

The LC/MS/MS test results show that both samples tested positive for 6MAM at a concentration level far above the administrative reporting cut-off level of five nanograms of per ten milligrams of hair. Sample N522328 tested positive at 112 nanograms per ten milligrams of hair (DX 7 page 4). Sample N519310 tested positive at 147 nanograms per ten milligrams of hair (DX 7 page 5). She further testified that these analytical results reflected heavy ingestion of heroin by the Respondent during the three-month period that preceded May 27, 2011, the date his hair samples were collected. . . . none of the prescription medications that the Respondent listed on the "Drug Screening Questionnaire - Hair Testing" form he completed on May 27, 2011 (DX 8) listing drugs that he had taken during the preceding three months could have caused his hair samples to test positive for 6MAM.

Michael Lehrer

Lehrer, who is presently employed as the Chief Toxicologist for the Suffolk County Medical Examiner, testified that he previously was employed as the Senior Scientific Consultant for Quest and that as an outside consultant for Quest he continues to train Quest personnel regarding drug testing. He was ruled to be an expert in the area of testing urine for drug content based on the qualifications cited in his curriculum vitae (DX 12). He explained that when a drug enters the body by ingestion it enters the urinary tract.

Lehrer testified that Benzoylcegonine (BE) is the principal metabolite that is produced in the body when cocaine is ingested and metabolized. The presence of BE in a urine sample establishes that the person who provided the urine sample has ingested cocaine because BE is produced only if cocaine has been ingested.

Lehrer testified that because ingested cocaine is quickly flushed out of the urinary tract, a urine sample that is tested for the presence of BE has a maximum 72-hour look back period depending on the amount of urine dilution that has occurred as a result of the consumption of liquids. Thus, lab analysis can only detect BE in a urine sample if cocaine was ingested within 72 hours of the point in time that the urine sample was collected.

Lehrer interpreted the data contained in the laboratory data packages produced by Quest (DX 13A & B) which detail the analytical results of the testing of the Respondent's urine samples that were collected on May 27, 2011. He explained that the Quest analytical results showed that one of the Respondent's urine samples tested positive for BE at a concentration level of 2841 nanograms of cocaine per ten milligrams of urine, and also tested positive for 6MAM at a concentration level of 675 nanograms of cocaine per ten milligrams of urine.

He further testified that the Quest analytical results showed that the Respondent's second urine sample tested positive for BE at a concentration level of 150 nanograms of BE per ten milligrams of urine and also tested positive for [REDACTED] at a concentration level of 2000 nanograms of cocaine per ten milligrams of urine.

Lehrer confirmed that he did not personally perform any of the tests on the Respondent's urine samples and that he did not supervise the technicians employed by Quest who performed these tests in Kansas City.

He stated that prior to testifying at this trial, he had personally spoken to Quest's present Lab Directors Ann Rule and Dawn Hahn about the data contained in the laboratory data packages produced by Quest (DX 13A & DX 13B) regarding the calibration of the testing equipment used, the testing methods used, and the results of this

testing. Also, in July, 2011, he personally trained Quest employee Matt Bright who was Quest's Certifying Scientist regarding the testing results (DX 13A page 132)

Sergeant Joseph Longo

Longo, assigned to IAB, testified that on February 8, 2011, he conducted a DMV check on the Respondent's New York State Driver License and discovered that it had been suspended in December, 2010 because his auto insurance had lapsed and that it was still under suspension as of February 8, 2011.

Longo further testified that when the validation date on a Department parking plaque (permit) expires, the member who has been assigned the Department parking permit can no longer display it on the dashboard of a vehicle and must return the expired Department parking permit to the Integrity Control Officer at his command. Longo also testified that he was present at the Respondent's official Department interview. At this interview, when the Respondent was asked about [REDACTED], he stated that he was aware that [REDACTED] had a criminal record involving drug offenses.

Sergeant Janice Maher

Maher, assigned to IAB, testified that she was on duty on May 27, 2011, inside IAB Headquarters, 315 Hudson Street, Manhattan, when the Respondent arrived there and signed in. The Respondent told her that he had driven to 315 Hudson Street in his personal vehicle.

The Respondent's Case

At the conclusion of the direct testimony of each of the Department's witnesses, the Respondent was offered the opportunity to cross-examine the witness by asking the witness questions. In each case, the Respondent declined to ask any questions. At the conclusion of the Department's presentation of evidence, the Respondent was offered the opportunity to call witnesses to testify on his behalf. The Respondent declined to call any witnesses. The Respondent was offered the opportunity to testify on his own behalf but he declined. . . . Respondent to take the stand and answer questions. Finally, both before and after the Advocate's closing argument, the Respondent was offered the opportunity to make a closing argument or to contest anything that the Advocate had stated in his closing argument but the Respondent declined to make a closing argument and he stated, "I have nothing to contest." (Trial Transcript, page 328)

Disciplinary Case No. 2011-4961, Specification Nos. 4 through 7

It is charged that Respondent possessed and ingested heroin between November 8, 2010 and February 8, 2011, that he possessed and ingested heroin between March 28, 2011 and May 27, 2011, and that he possessed and ingested cocaine between May 24, 2011 and May 27, 2011.

8, 2011and on May 27, 2011 were founded upon reasonable suspicion

Scali's testimony that on February 8, 2011, he saw [REDACTED] seated in the driver's seat of a car holding a hypodermic needle in his right hand and that he saw four more hypodermic needles in plain view in the center console between [REDACTED] and the Respondent, who was seated in the front passenger's seat, constituted sufficient reasonable suspicion for [REDACTED] tested for drugs that day.¹

Similarly, Cooper's testimony that on May 27, 2011 when the Respondent was searched in Cooper's presence, he observed that the Respondent had stuffed down inside his pants two plastic prescription bottles which together contained 62 glassine envelopes containing a substance consistent with heroin, constituted sufficient reasonable suspicion for the issuance of the directive that the Respondent be immediately tested for drugs that same day.²

The Respondent's hair and urine samples were properly collected, packaged, sealed and sent for testing

Profeta's testimony -- -- -- -- -- followed in collecting, packaging, sealing and storing the Respondent's hair samples on February 8, 2011, establish that the Respondent's hair samples were properly collected in

¹ See Felder v. Kelly, 210 A D 2d 78 (1st Dept 1994)

² See Martinez v. Ward, 166 A D 2d 392 (1st Dept 1990)

6MAM at a concentration level well above the administrative cut-off level of five nanograms of cocaine per ten milligrams of hair. Specifically, Sample N210229 tested positive at 59.5 nanograms per ten milligrams of hair (DX 6 page 4) and Sample N132881 tested positive at 56.2 nanograms per ten milligrams of hair (DX 6 page 5). She concluded that these analytical results conclusively establish that the Respondent ingested heroin during the three-month period prior to February 8, 2011.

Ghaffar also interpreted the data contained in the Psychomedics laboratory data package which details the analytical results of the testing of the Respondent's hair samples that were collected by DeFazio on May 27, 2011 (DX 7). She testified that these analytical results also show that after one of the Respondent's two hair samples tested positive when subjected to the RIA test, both of the Respondent's hair samples were then separately tested via LC/MS/MS instrumentation and that the LC/MS/MS test results show that both samples tested positive for 6MAM at a concentration level far above the administrative reporting cut-off level of five nanograms of per ten milligrams of hair.

Sample N519310 tested positive at 147 nanograms per ten milligrams of hair (DX 7 page 5). She concluded that these analytical results establish that the Respondent ingested heroin during the three-month period prior to May 27, 2011.

Also, Lehrer testified that the data contained in the laboratory data packages produced by Quest (DX 7 page 5) testing of the Respondent's urine samples that were collected on May 27, 2011, show that one of the Respondent's urine samples tested positive for the cocaine metabolite (BE) at a concentration level of 2841 nanograms of cocaine per ten milligrams of urine, and also tested positive for 6MAM at a concentration level of 675 nanograms of cocaine per ten milligrams of urine. He further

testified that the results showed that the Respondent's second urine sample tested positive for BE at a concentration level of 150 nanograms of BE per ten milligrams of urine and also tested positive for [REDACTED] at a concentration level of 2000 nanograms of cocaine per ten milligrams of urine. Since BE is produced only when cocaine is ingested, Lehrer opined that the testing results established that the Respondent ingested cocaine during the 72-hour period which preceded May 27, 2011, the date his urine samples were collected.

Ghaffar and Lehrer did not personally conduct any of the tests performed on the Respondent's samples. However, Ghaffar personally supervised the tests performed by Psychomedics lab technicians on the Respondent's hair samples, and Lehrer personally discussed the data packages (DX 13A and 13B) with Ann Rule and Dawn Hahn, the lab directors who signed off on Quest's laboratory data packages, and he personally trained Matt Bright, Quest's Certifying Scientist regarding the test results on the Respondent's urine samples. Due process does not require that the technicians who performed these tests testify at this disciplinary trial because testing results may be based on the testimony of supervisory personnel where, as here, the reliability of the testing procedure used has been established, the testifier is familiar with all the steps taken, is available to be cross-examined and no claim is raised that there was a specific defect in the testing procedures.³ The Respondent here did not allege any specific defect in the testing procedures utilized by Psychomedics or Quest.

Where, as is the case here, a recognized screening test positive result is confirmed when the same sample is subjected to MS analysis, such testing results have been found to constitute substantial scientific evidence of the presence of the drug that is detected.⁴

³ Gordon v. Brown, 84 N.Y.2d 574, 579-580 (1994).

⁴ McBride v. Kelly, 215 A.D.2d 161 (1st Dept. 1995).

Moreover, here the testing results produced by Psychemedics and Quest regarding the urine and hair samples taken from the Respondent on May 27, 2011, are supported by Criminalist Mora' Respondent's person on May 27, 2011, were analyzed by her via GC/MS, they both tested positive for heroin (DX 11)

Based on the above, the test results regarding the Respondent's hair samples and regarding his urine samples constitute substantial evidence⁵ that the Respondent possessed and ingested heroin between November 8, 2010 and February 8, 2011, that he possessed and ingested heroin between March 28 2011 and May 27, 2011 and that he possessed and ingested cocaine between May 24, 2011 and May 27, 2011

Guilty of Specification Nos 6 and 7 under Disciplinary Case No 2011-3633, and the Respondent is found Guilty of Specification Nos 4 through 7 under Disciplinary Case No 2011-4961

Disciplinary Case No 2011-4961, Specification No 1

The Respondent is found Guilty because the combination of Cooper's testimony, Soto s testimony, and Mora's testimony (discussed above) proved that on May 27 2011 the Respondent possessed 62 glassine envelopes containing heroin which had an aggregate weight of 2 66 grams Thus, the record establishes that the Respondent committed the Penal Law crime of Criminal Possession of a Controlled Substance

The Respondent is found Guilty of Specification No 1

⁵ See McGovern v Safir, 266 A D 2d 107 (1st Dept 1999)

Disciplinary Case No 2011-3633 Specification Nos 1 through 5

The Respondent is found Guilty of Specification No 1 because Longo's testimony proved that between November 15, 2010 and February 8, 2011, the Respondent failed to maintain a current New York State Driver License in that his license was suspended due to his failure to maintain automobile insurance

The Respondent is found Guilty of Specification No 2 because Scali's testimony proved that on February 8, 2011, the Respondent engaged in conduct prejudicial to the good order, efficiency or discipline of the Department by allowing [REDACTED] to possess and use drug paraphernalia (a hypodermic needle) in his presence

The Respondent is found Guilty of Specification No 3 because Scali's and Longo's testimony proved that on February 8, 2011, the Respondent knowingly associated with [REDACTED] a person reasonably believed to be engaged in, likely to engage in or to have engaged in criminal activities in that the Respondent had personal contact with [REDACTED] who had a criminal history

Finally, the Respondent is found Guilty of Specification Nos 4 and 5 because Scali's and Longo's testimony proved that on February 8, 2011 the Respondent engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that he had failed to return his Department issued vehicle parking permit after the permit had expired and he was displaying this expired permit on the dashboard of his vehicle

Therefore the Respondent is found Guilty of Specification Nos 1 through 5

- 2011-3633

Disciplinary Case No 2011-4961, Specification Nos 2 and 3

The Respondent is found Guilty of Specification No 2 because Cooper's Longo s and Maher's testimony established that on May 27, 2011, the Respondent was operating a motor vehicle on a public highway without a valid driver's license and had reason to know that his privilege to operate a vehicle in New York State had been suspended Finally, the Respondent is found Guilty of Specification No 3 because Cooper's and Longo's testimony and MacKay's written statement (DX 3) established that the Respondent knowingly associated with MacKay, an individual reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities, despite the Respondent's knowledge of his drug use The Respondent is found Guilty of Specification Nos 2 and 3 under Disciplinary Case No 2011-4961

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined See *Matter of Pell v Board of Education*, 34 N Y 2d 222 (1974) Respondent was appointed to the Department on January 10, 2005 Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum

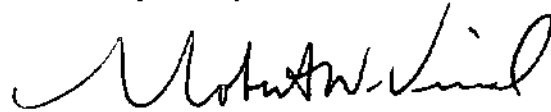
The Advocate recommended that the Respondent be dismissed from the Department

The Respondent has on two separate occasions violated the Department's rule against using illegal drugs by consuming both heroin and cocaine Also, the Respondent

was found in possession of 62 glassine envelopes which contained heroin and thereby committed the Penal Law crime of Criminal Possession of a Controlled Substance

I therefore recommend that he be DISMISSED from the New York City Police Department

Respectfully submitted,



Robert W Vinal
Assistant Deputy Commissioner - Trials

APPROVED
NOV 28 2011

RAYMOND W KELLY
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From Assistant Deputy Commissioner - Trials

To

Subject CONFIDENTIAL MEMORANDUM
POLICE OFFICER CHRISTOPHER CONNOLLY
TAX REGISTRY NO 936376
DISCIPLINARY CASE NOS 2011-3633 & 2011-4961

The Respondent received an overall rating of 3.0 on his 2009 annual performance evaluation, and 4.0 on his 2008 evaluation. He has no medals [REDACTED]. [REDACTED] He has no prior disciplinary record. He does not have monitoring records.

For your consideration


Robert W. Vinal
Assistant Deputy Commissioner – Trials